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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,220	07/10/2003	Don Tabor	03-11617	2380

20988 7590 12/17/2004  
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CANADA

EXAMINER

HOLZEN, STEPHEN A

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/617,220

Applicant(s)

TABOR, DON

Examiner

Stephen A. Holzen

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 15-23 and 28-37 is/are pending in the application.
- 4a) Of the above claim(s) 1-14 and 24-27 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33-37 is/are allowed.
- 6) ☒ Claim(s) 15, 16, 21-23 and 28 is/are rejected.
- 7) ☒ Claim(s) 17-20 and 29-32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

***Response to Arguments***

1. Applicant's arguments with respect to claim 15-32 have been fully considered but they are not persuasive. The applicant's arguments with respect to claims 33-37 have been fully considered and are persuasive. The rejection of claims 33-37 has been withdrawn. The rejection of claims 15-32 stands.

The examiner agrees that the Gayla's blades are integral ("one piece"). However the examiner does not agree with the applicant's assertion that Gayla fails to disclose the claimed invention. The applicant's arguments are more specific than the claim language. The propellers of Gayla are separately coupled to each other, even though they are integral (one piece).

Step 7 of Gayla illustrates the claimed aperture, and step 8 illustrates an axle portion extending through the common aperture. Steps 7 and 10 illustrate the support structure. Re – Claim 23: this claim is a product by process. The phrase "snap" imparts no structural relationship. Re – Claim 28: the blades are interlocked with each other due to their integral nature.

2. The applicant has again failed to provide reasons why the election restriction is traversed, therefore the election has been (and still is) considered an election without traverse.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 15,16,21,22,23,28 are rejected under 35 U.S.C. 102(b) as being anticipated by Gayla Industries, Inc. website (herein referred to as Gayla). Gayla disclose a kite comprising a fuselage, at least one wing portion and a propeller system couple to said at least one wing, plural blade portions separably coupled to each other to define a rotating member having a common aperture, a support attached to said wing portion and an axel extending through aperture. (see Step 7 and step 10). Gayla further disclose a base portion coupling said support to at least one wing portion, wherein said axel comprising a post portion and one or more retaining member retaining said axel through said common aperture, wherein said support comprise a circular base and a transverse support portion connected to said base (see cowling) said support portion defining a support aperture registered with said common aperture for receiving said axle in rotating member mounting condition, in which support portion and said base snap together.

***Allowable Subject Matter***

4. Claims 33-37 are allowed.

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5. Claims 17-20 and 29-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A. Holzen whose telephone number is 703-308-2484. The examiner can normally be reached on M-F 7:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 703 305-7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'Teri Pham Luu', with a stylized, cursive script.

**TERI PHAM LUU  
SUPERVISORY  
PRIMARY EXAMINER**